

Remarks

This is in response to the final Office Action mailed on May 7, 2004. Claims 1-5 and 7-9 have been canceled without prejudice or disclaimer. Claims 10-17 remain pending. Reconsideration and allowance of all pending claims are respectfully requested in view of the following remarks.

In section 3 of the Office Action, claims 10-17 were noted as being allowed. Applicant appreciates the Examiner's assistance in identifying allowable subject matter. Claims 1-5 and 7-9 have been canceled without prejudice or disclaimer, leaving only allowed claims 10-17 pending in the application. Therefore, the application is in condition for allowance.

In section 5 of the Office Action, claims 1-5 and 7-9 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Schieve et al., U.S. Patent No. 5,455,933, in view of Cheffetz et al., U.S. Patent No. 5,133,065. This rejection is respectfully traversed, and the correctness of the rejection is not conceded.

For example (and as stated in more detail in previous responses), it is respectfully suggested that Schieve fails to disclose or suggest a computer program pre-recorded on a removable storage medium, or that the removable storage medium is to be loaded into a removable media storage device of a local computer, as recited by claim 1. It is instead suggested that Schieve actually teaches away from such a configuration.

In addition, it is respectfully suggested that Schieve fails to disclose or suggest a method including rectifying data on the data storage device, as recited by claim 4.

Further, neither reference discloses or suggests downloading a data recovery application program from a remote data recovery computer, as recited by claim 9.

However, in the interest of moving this application into condition for allowance, claims 1-5 and 7-9 have been canceled without prejudice or disclaimer as to their future prosecution in a continuation application. The cancellation of these claims should not be construed as the Applicant acquiescing as to the correctness of the rejection. In view of this amendment, the application is in condition for allowance.

Reconsideration and allowance are respectfully requested. The Examiner is encouraged to contact the undersigned attorney at (612) 336-4771 should an interview be beneficial in moving this case into condition for allowance.

Respectfully submitted,
MERCHANT & GOULD P.C.
P.O. Box 2903
Minneapolis, Minnesota 55402-0903
(612) 332-5300

Date: July 28, 2004

By: Robert A. Kalinsky
Name: Robert A. Kalinsky
Reg. No.: 50,471
RAK